



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Price Field Office
125 South 600 West
Price, UT 84501
[http:// www.blm.gov/utah/price/](http://www.blm.gov/utah/price/)



JUL 26 2007

In Reply Refer to:
3809
UTU-79570
(UT-070)

CERTIFIED MAIL 7006 0100 0001 0305 2496
RETURN RECEIPT REQUESTED

FIELD OFFICE DECISION

Jerome L. Bown
93 West 300 South
Manti, Utah 84642

: Finding of No Significant Impact
: Plan of Operations Approved
: 43 CFR 3829.411 (2)

PLAN OF OPERATIONS APPROVED

Dear Mr. Bown:

Per 43 CFR 3809.411 (2) and 43 CFR 3809.420 the BLM has approved your Plan of Operations with mitigating measures described as Alternative C of the environmental assessment. Alternative C will now be the mining plan of operations for the quarry operations.

Before operations begin the following must be completed: an appraisal of the flagstone must be completed; an escrow account must be established; you must have approval from Utah Division of Oil, Gas and Mining (DOGM); and you must have filed a financial guarantee covering 100% of the reclamation costs of your operation. BLM and DOGM will coordinate efforts to calculate the financial guarantee.

If you do not agree and are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request must be received in the Utah BLM State Office at P.O. Box 45155, Salt Lake City, UT 84145, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless the State Director grants a Stay. If you request a Stay, you have the burden of proof to demonstrate that a Stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM

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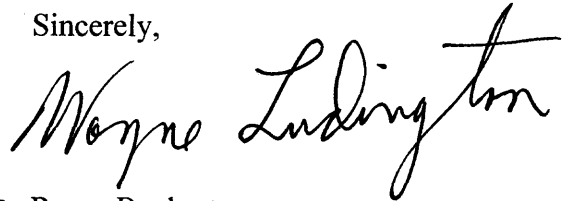
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State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 125 South 600 West, Price, Utah 84501, and which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a) (1). Your Notice of Appeal must be filed in this office within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed BLM Form 1842-1 contains further information on taking appeals to the IBLA.

Please contact Rebecca Doolittle at (435) 636-3600 if you have any questions.

Sincerely,



for Roger Bankert
Field Manager

Enclosures

Finding of No Significant Impact/Decision Record
BLM Form 1842-1

cc: Paul Baker

Department of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801

**FINDING OF NO SIGNIFICANT IMPACT
AND
DECISION RECORD**

**Bown Stone Products, Inc.
Desert Sienna Flagstone Quarry Proposal**

EA-UT-070-06-020
UTU-79570

Finding of No Significant Impact: Based on the analysis of potential environmental impacts contained in the attached environmental assessment (EA), and considering the significance criteria in 40 CFR 1508.27, I have determined that the action will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

Decision: Approval of a mining plan of operations submitted to work claims staked under the General Mining Law of 1872 is not a discretionary action. BLM has the obligation to analyze the environmental impacts to ensure that the operation does not cause undue and unnecessary degradation to the environment. BLM has the option to either approve or deny a complete plan of operations, but does not have the option to move mining claims.

It is my decision to approve Bown Stone Products, Inc. mining plan of operations to develop the Desert Sienna Flagstone quarry and improve and maintain the existing access route to the quarry as described in Alternative C- Proposed Action with Mitigation Measures of EA-UT-060-020. Bown Stone Products, Inc. submitted a mining plan of operations to quarry flagstone on their Desert Sienna mining claims. The estimated disturbance is 60 acres over a 15 year period. However, a maximum of five acres will be disturbed at any one time including access road, the loading/processing pad and the area being quarried. No other alternatives were considered in this analysis. Approval of a mining plan of operations submitted to work claims staked under the General Mining Law of 1872 is not a discretionary action. BLM has the obligation to analyze the environmental impacts to ensure that the operation does not cause undue and unnecessary degradation to the environment. BLM has the option to either approve or deny a complete plan of operations. I have determined that approving the mining plan of operations as amended by the EA would prevent unnecessary and undue degradation of the environment.

This decision is contingent on Bown Stone Products meeting all stipulations and monitoring requirements listed below and incorporates compliance measures outlined in 43 CFR 3809.

Stipulations:

A. Before Operations Begin:

1. BLM made a preliminary determination that the flagstone within the Desert Sienna claims is common variety sandstone and thus salable through 43 CFR 3600 (Mineral Materials Act). BLM will be conducting a mineral validity exam to determine whether or not the flagstone is of uncommon variety. Before operations begin, Bown Stone Products, Inc. is required to submit a financial guarantee that covers 100% of the reclamation on their claims and establish an escrow account in a form acceptable to the BLM. Bown Stone Products will be required to make regular payments to the escrow account for the appraised value of possible common variety minerals removed under a payment schedule approved by BLM. The funds in the escrow account may not be disbursed to the Bown Stone Products or the U.S. Treasury until a final determination of whether the mineral is a common variety and therefore salable under 43 CFR part 3600.
2. Trucks and the front-end loaders will be pressure washed before being used on-site to minimize the introduction of invasive, non-native plant species.

B. Quarry Access

1. Road improvements along 1,760 feet of existing spur road between the Dutch Flat (EM706) Road and the mine site shall include ditches, crowning of the road surface and/or water bars to keep water off the road surface as appropriate. Improvements would also include widening the existing road to accommodate a tractor-trailer that would transport rock away from the site. The road will be graded to remove existing ruts. Adequate road base and surface course materials shall be placed to reduce erosion and ruts caused by truck traffic. Also mine roads within the 60-acre claim would be constructed to transport quarried material to the processing pad, and off the claim to the claim access road.
2. The spur road and associated road drainage shall be regularly maintained to avoid erosion or the creation of a muddy, braided road. The road shall not be flat-bladed.
3. During the operation of the quarry, signs warning travelers on Dutch Flat Road (EM 706) of heavy truck traffic should be placed along the pit access route.

C. Quarry Operations

1. Boundaries of the site will be clearly marked and maintained for the duration of the mining operation. If PVC pipe is used to mark the boundary of the permit area, the pipe shall be capped.

2. Any vegetation removal necessitated by quarrying the stone shall be confined to the limits of quarry operation. Removed vegetation shall be stockpiled for use in reclamation at the direction of the BLM.
3. All soil removed prior to any surface disturbing activity shall be stockpiled along one edge of the operation until reclamation procedures are initiated.
4. No crushing of material is proposed at the site.
5. All soil removed prior to any surface disturbing activity shall be stockpiled along one edge of the operation until reclamation procedures are initiated and used for reclamation.
6. Stone would be quarried using a track-mounted excavator, by peeling back the rock layers. Quarrying would begin along the cliff edge on the southeast edge of the claims and move northwest away from the cliff line. This would result in an open pit-bench type operation.
7. Once quarried, the stone would then be carried in a front-end loader to a one-acre sized processing pad where the rock would be split, graded, and packaged for shipment. The pad would be a cleared, level area.
8. The quarry would be worked in a consistent flow as opposed to five acre segmented disturbances to allow continuous production. The quarry activity would involve removing 10 to 20 feet of sandstone over an area of one to three acres. A maximum of five acres of disturbance (this includes mine roads, quarry area and processing pad) would be allowed. Once the area has been mined, the mined area would be reclaimed and the quarry activity would continue in an adjacent area. Reclamation would be concurrent with excavation.
9. Waste piles will be used to backfill the excavations. To reduce potential sedimentation, all waste rock will remain on site as stockpiles until used to backfill quarry pits. No waste rock or soil material shall be broadcast down the slopes surrounding the quarry area.
10. No camping in connection with the operation will be allowed.
11. Trash shall be collected and contained and shall not be allowed to accumulate. All trash shall be disposed of in an approved landfill facility.
12. No oil or petroleum products shall be drained onto the ground surface. Any oil, lubricant, toxic material or contaminated soil, shall be removed from the site and disposed of at an approved facility.

13. A 500-gallon fuel gravity powered fuel tank will be placed on the processing pad. The tank shall have a safety reservoir underneath it in case of tank failure.
14. The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent, and suppress fires on the area of the mining/quarry operation.
15. Hand tools and maintenance supplies will be stored in a 20-foot long steel storage container located on the pad.
16. Best management practices for storm water pollution prevention management described in the Storm Water Pollution Prevention Plan would be used to protect surface water resources in adjacent drainages. This includes installing drainage control barriers on-site to prevent sediment from leaving the quarry site. Along with using best management practices for storm water pollution prevention and management, all waste rock and material generated from the quarry operation shall not be broadcast out along the slopes that surround the site. All material shall be contained within the quarry disturbance and used as backfill of quarry pits.
17. Avoid all cultural resource sites identified in the cultural resource surveys. In the event additional cultural resources are found during quarrying the rock, work shall cease immediately at the site and the Price Field Office Manager or their representative shall be notified immediately. The operator will then receive guidance on how to proceed.
18. In the event paleontological values in the form of vertebrate fossils (bones) or vertebrate trace fossils (i.e. tracks) are discovered during the course of operations, work shall cease immediately at the site and the Price Field Office Manager or their representative shall be notified immediately.
19. Dutch Flat Road (EM 706) and the proposed quarry are located within the Dutch Flat Pasture of the Salt Wash Grazing Allotment. Because there are other pastures within this grazing allotment where grazing is rotated through the year, livestock may be present during the fall, winter or spring. The travel route is open range. Livestock are attracted to standing water and the shelter pits in quarries provide. Be aware that livestock may be present in the area. During times when the quarry is not in operation all pits shall be fenced.
20. At any given time the amount of disturbed area (includes roads on mining claim, processing pad and active quarry shall not exceed more than 5 acres. If acreage exceeds 5 acres this plan of operations must be amended and approved before operations continue.

21. If the site is inactive for three consecutive years and no use is scheduled, reclamation procedures shall be initiated. Abandoned portions of the quarry shall be reclaimed within one year, or to maintain an area of 5 acres of disturbance or less.

D. Quarry Proof of Production

1. Until a validity determination is made, Bown Stone Products, Inc. shall maintain production records of the operation. All production records including trip tickets, or scale tickets, and documentation supporting production, shall be submitted to the BLM quarterly to substantiate the quantity of flagstone removed from the operation.

E. Quarry Reclamation

1. Because there may not be enough soil for reclamation on the site, the operator may be required by the Field Manager or their representative to import clean soil to use in reclamation.
2. Any pits shall be backfilled and disturbed area restored to approximately original contour. The topsoil shall be spread and the area reseeded during the fall. The following seed mixture shall be used at a rate of 14.5 pounds per acre and certified weed free. If the seed is broadcast, a harrow or other such implement shall be dragged over the seedbed to ensure coverage.

a. Seed Mix:

Plant Common Name	Plant Scientific Name	Pounds per Acre*
Grasses		
Indian ricegrass	<i>Oryzopsis hymenoides</i>	3
alkali sacaton	<i>Sporobolus airoides</i>	2
galleta grass	<i>Hilaria jamesii</i>	2
Shrubs & Forbs		
fourwing saltbush	<i>Atriplex canescens</i>	3
shadscale	<i>Atriplex confertifolia</i>	2
winterfat	<i>Eurotia lanata</i>	1
Mormon tea	<i>Ephedra viridis</i>	1
scarlet globemallow	<i>Sphaeralcea coccinea</i>	½
Total (*spreading rates are for pure live seed)		14.5

3. Reclamation at the site shall include the placement of mulch as directed by the Authorized Officer. The type of mulch shall meet the following requirements:
 - a. Wood cellulose fiber shall be natural or cooked, shall disperse readily in water, and shall be nontoxic. The homogenous slurry or mixture shall be capable of

application with power spray equipment. A colored dye that is noninjurious to plant growth may be used when specified. Wood cellulose fiber shall be packaged in new, labeled containers. A minimum application of 1,500 pounds per acre shall be applied. A suitable tackifier shall be applied with the mulch at a rate of 60 to 80 pounds per acre.

- b. An alternative method of mulching on small areas shall be the application of straw or hay mulch at a rate of 2,000 pounds per acre. Hay or straw shall be certified weed free. Following the application of straw or hay, crimping shall occur to retain retention.
4. Fencing of any reclaimed area to keep livestock out of the site shall be done at the discretion of the Authorized Officer.
5. Reclamation shall be considered complete when so determined by the Authorized Officer. Reclamation shall include all surface disturbance associated with the operation.
6. Any significant departures from the plan of operations shall require a submission of an amendment to the Price Field Office. The amendment must be approved prior to the on-the-ground change. The authorized officer shall determine what constitutes a significant departure from the plan of operations.

Monitoring and Compliance:

No monitoring needs have been identified for this action. However, this quarry operation is subject to the BLM's surface management regulations as defined in 43 CFR 3809. Under these regulations, BLM must regularly visit the site for compliance inspections. These inspections would evaluate the operation to ensure activities comply with the approved plan of operations. If the operation is not found to comply, a Letter of Noncompliance would be issued to the operator notifying them of what the issue of noncompliance is, how it is to be remedied, and in what time frames the remediation must occur. In most cases the operator would be required to stop operations until the situation is remedied (43 CFR 3809).

Rationale for the Decision:

1. The "Proposed Action with Mitigation" alternative is in conformance with the San Rafael Resource Management Plan and has complied with the Endangered Species Act, National Historic Preservation Act, and other laws and policies that govern the proposed project.
2. Based on the environmental analysis in the EA, compliance with the mitigation and monitoring measures in the EA, compliance with the monitoring and mitigation requirements in this Decision Record/FONSI, compliance with the stipulations in this decision record, and conformance with the content of plan of operations amendment,

I have determined that the proposed action will not result in any unnecessary or undue environmental degradation of public lands, and is consistent with federal, state and local laws, regulations and plans.

3. The proposed action would not impact any threatened or endangered species or significant scientific, cultural, historical or paleontological resources.
4. The plan of operations with Mitigation Alternative was selected because it added extra environmental protection measures to prevent undue and unnecessary degradation that were not include in the plan of operations.
5. Comments from the Hopi Tribe stated that they accepted the project as long as the stipulation language recommended by the cultural resource survey consultant was included in the mitigation of the plan of operations.
6. No public comments were received.

Appeals:

If there is disagreement and are adversely affected by this decision, in accordance with 43 CFR 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office P.O. Box 7004, Price, Utah 84501 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of

this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted,
and
4. Whether the public interest favors granting the stay.

Roger Banker
Authorized Officer (signature)

6/18/07
Date of signature